

SINGLE BENCH

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR: C.G.

W.P. NO. OF 2005

WRIT PETITION UNDER ARTICLE 227, OF CONSTITUTION OF INDIA

Petitioners:
Defendants

- 1) Smt. Suhasin Bai, Wd/o Chandrashekhar, aged 83 years,
- 2) Pardeshi Prasad Kesharwani S/o Chandrashekhar, aged about 58 years.
- 3) Ramjilal Kesharwani S/o Chandrashakhar, aged about 45 years.
All R/o Ward No. 6, Thahangu Gali, Saranggarh, Tahsil Saranggarh, District Raigarh (C.G.)
- 4) Smt. Lila Kehserwani W/o Bhim Prasad Kesharwani, aged about 68 years,
Cloth shop, R/o Telipara, New Bus Stand Road, Bilaspur (C.G.).
- 5) Smt. Radha W/o Ratanlal Kesharwani, aged about 56 years,
R/o Village Post Tata, Thasil Sarsinva (Bilaigarh), District Raigarh.
- 6) Smt. Maya W/o Anil Kesharwani, aged about 42 years, R/o Khushbu Readymade Centre, Sadar Bazar Shivanarayan, District Janjgir Champa (C.G.).

P.R. No. 3051/05
Presented by Shri. Sonja Perant
dated 12/12/05

VERSUS

Respondents:
Plaintiffs

- 1) Kaushal Prasad S/o Rameshwar Bani, aged about 82 years, R/o Near New Talab, Azad Chauk, Saranggarh, District Raigarh.
- 2) Smt. Samudbai W/o Late Mahadev Prasad Bani, aged 70 years.
- 3) Sharad Kumar S/o Late Mahadev Prasad Bani, aged about 40 years.
- 4) Sapan Kumar S/o Late Mahadev Prasad Bani, aged about 28 years.
N. 2 to 4 R/o Village Nawagarh, District Janjgir-Champa.
- 5) Smt. Basanti Bai D/o Late Mahadev Prasad Bani,
Through husband Kaushal @ Sadhuram Village Nawagadh, District Janjgir Champa.
- 6) Smt. Neelkumari D/o Late Mahadev Prasad Bani, through husband Santosh Gupta R/o Near Bus Stand Dhamdha, District Durg.
- 7) Shail Kumari Wd/o Late Suresh Kumar Kesharwani, aged about 42 years.
- 8) Avinash Kesharwani S/o Late Suresh Kumar Kesharwani, aged about 25 years.
- 9) Abhishek Kesharwani S/o Late Suresh Kumar Kesharwani, aged about 22 years.



Nos. 7 to 9 R/o Saranghadh, District Raigadh.

आदेश पत्रक

मामला क्रमांक WP 2933/05 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>15.7.2005</u> Shri Sanjay S.Agrawal, counsel for the petitioners. Heard learned counsel for the petitioners at the admission stage. By the instant petition the petitioners have questioned the legality & propriety of order dated 29.3.2005 passed by learned 4th Additional District Judge, Raigarh in Civil Suit No.23A/02 whereby learned Additional District Judge after rejecting the objections raised by the petitioners herein allowed to exhibit the agreement dated 2.6.1959. Learned counsel for the petitioners submitted that by the impugned order learned Additional District Judge has rejected the objections raised by the petitioners and decided the issue finally, whereas, the question before the court below was as to whether the document in question is a partition deed or memorandum of a partition already effected. He further submitted that this issue could have been decided only after recording of evidence of the parties and for that limited purpose the document in question can be allowed to be exhibited subject to the objections raised by the petitioners herein about the admissibility of the same and that issue could have been decided after recording the evidence because the evidence led by the parties will show whether any partition was effected before the execution of document in question /or the properties were partitioned only by the document in question.	

आदेश पत्रक

मामला क्रमांक सन् 200

..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
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The limited request made by counsel for the petitioner seems to be legally sustainable, therefore, the order in question is modified to the extent that the document in question be allowed to be exhibited and tender into evidence by the plaintiffs, however, the objections raised by the defendants/petitioners herein be decided at the time of final judgment after recording the evidence of the parties.

No other point has been raised by counsel for the petitioner, therefore the petition is disposed of with the direction aforesaid.

Consequently, M.(W.)P. No.2470/05 & I.A. No.580/05 also stand disposed of.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

Roshan/-